

Appl. No 10/710,010
Amdt. Dated September 12, 2005
Reply to office action of September 7, 2005

REMARKS/ARGUMENTS

In the Office Action the examiner states in item 2 that "Claims 1-5, 8, and 9 are rejected under 35 U.S. C. 102(b) as being anticipated by Nunemaker (3,985,492), which shows all of the claimed limitations." Applicant respectfully traverses this rejection.

First, regarding Claim 1, applicant notes that, as described in paragraph [0010] of applicant's specification, a candlewick-fixing tool is defined as "...combining a candlewick-straightening device and a candlewick flame snuffer..." As described in paragraph [0035] of applicant's specification the candlewick-straightening device includes a candlewick hook.

The MPEP section 2130 contains a footnote, which includes "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."

Applicant, in review of Nunemaker (3,985,492), fails to find all elements of any of applicant's claims. Among the elements not found in Nunemaker (3,985,492) is the element of Claim 1 of a candlewick hook circular opening arranged with an inside diameter of one-fourth inch or greater. One-fourth inch is approximately 6.35 mm. Nunemaker shows a device with an extension which is adapted for holding a friction-type safety match with an opening of "...about two to three millimeters width through the center..." (Col 2 lines 3-8).

Applicant further notes that, as described in applicant's specification paragraph [0012]:

"As used in this application a candlewick straightening device is defined as one which may be positioned around a candlewick as shown in figures 3 and 4. The inside diameter of the candlewick straightening device circular opening has been sized to straighten a candlewick by surrounding the wick, thus allowing horizontal motion to contact and adjust the wick. A range of inside diameters to provide ease of lowering the loop around the wick is 1/4" (6.35mm) to 1/2" (~12.7mm). Smaller diameters than this are too difficult to position around common candlewicks to be considered a candle wick straightening device."

As shown by Nunemaker (3,985,492) in Col 2 lines 3-8, a matchstick holder is much smaller than 1/4", and thus Nunemaker (3,985,492) does not teach a candlewick-straightening

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device as defined by applicant's specification. Applicant's Claim 1 is therefore not anticipated by Nunemaker (3,985,492).

Claims 2-5 are dependent claims in a family of claims dependent on independent Claim 1. Dependent claims incorporate all limitations of the claims they are dependent upon. Since Claim 1 has been shown above to have at least one limitation that is patentably distinct from Nunemaker (3,985,492) then Claims 2-5 are patentably distinct.

Claim 8 is a means plus function claim meeting the criteria of 35 U.S.C. 112, and directed to a candlewick-straightening device and flame snuffer. Applicant notes that the Nunemaker (3,985,492) patent does not teach a candlewick-straightening device as previously shown. Since Nunemaker (3,985,492) does not teach a candlewick-straightening device, it does not teach means for repositioning a candlewick as defined by applicant's specification. Applicant further notes that fig. 4 of Nunemaker (3,985,492) shows the device of that reference candle flame snuffer contacting the support surface rather than showing "means for supporting the device and snuffer such that the candlewick repositioning means and the candle flame extinguishing means are elevated above the support surface." (emphasis added). Applicant's Claim 8 is therefore not anticipated by Nunemaker (3,985,492).

Claim 9 is a method of repositioning a burning candlewick involving manipulation of a candlewick fixing device. A candlewick fixing device is a tool that combines a candlewick-straightening device and a candlewick flame snuffer, as shown previously. Since Nunemaker (3,985,492) does not show a candlewick-straightening device, as also shown previously, the method described in Claim 9 is not inherent to the invention disclosed by Nunemaker (3,985,492). Applicant's Claim 9 is therefore not anticipated by Nunemaker (3,985,492).

Claims 1-5, 8 and 9 have been shown to not be anticipated by Nunemaker (3,985,492) and withdrawal of this rejection is respectfully requested.

The Office Action further rejects claims 6 and 7 as being rejected under 35 U.S.C. 103(a) as being unpatentable over Nunemaker (3,985,492) in view of Schroeder (1,572,316) in item 5. Applicant respectfully traverses this rejection.

The MPEP in section 2143 states "To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art,

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to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, **the prior art reference (or references when combined) must teach or suggest all the claim limitations.**" (emphasis added)

As shown previously, Nunemaker (3,985,492) does not disclose all of the claimed limitations of Claim 1. Claims 6 and 7 are dependent claims in a family of claims dependent on independent Claim 1. Dependent claims incorporate all limitations of the claims they are dependent upon. Since Claim 1 has been shown above to be patentably distinct from Nunemaker (3,985,492) then claims 6 and 7 are patentably distinct from Nunemaker (3,985,492). Applicant submits that the combination of Nunemaker (3,985,492) and Schroeder (1,572,316) therefore do not teach all limitations of Claims 6 and 7, and withdrawal of this rejection is respectfully requested.

In response to item 6 of the Office Action, applicant review of the prior art made of record finds that the references, either singly or in combination, do not teach all limitations of any of applicant's claims.

Applicant submits that all objections and rejections of claims have been addressed and applicant's application has been shown to be allowable and that action is respectfully requested.

Respectfully submitted:



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